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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,195	06/13/2001	Kelvin Brian Dickinson	J3544(C)	6049

201 7590 06/26/2003

UNILEVER  
PATENT DEPARTMENT  
45 RIVER ROAD  
EDGEWATER, NJ 07020

EXAMINER

GOLLAMUDI, SHARMILA S

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 06/26/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/880,195	DICKINSON ET AL.
Examiner	Art Unit	
Sharmila S. Gollamudi	1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 03 May 2003.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,3 and 5-10 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,3 and 5-10 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 13.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

Receipt of Request for Continued Examination received on March 31, 2003 and Supplementary Information Disclosure Statement received on May 3, 2003 is acknowledged. Claims 1, 3, and 5-10 are included in the prosecution of this application.

### ***Response to Arguments***

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 3, and 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0546235 by itself or in view of Merianos et al (4,155,994).**

EP teaches a hair-restorer containing a mixture of castor oil, almond oil, olive oil, and coconut oil in equal proportions. Glycerol or paraffin oil (liquid) may be added. See abstract and page 5. The example teaches 1/6 parts of each ingredient.

EP does not specify if the paraffin oil is light.

Merianos et al teach hair-conditioning agents. Merianos teaches a hair cream composition containing Drakeol #7, a light mineral oil. Note example 8.

It is deemed obvious to one of ordinary skill in the art to utilize a light paraffin oil depending on the desired viscosity of the product since it is known in the cosmetic art that light paraffin oil is less viscous than heavy paraffin oil.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to look to the teachings of Merianos et al and incorporate light mineral oil into the hair composition of EP. One would be motivated to do so since Merianos teaches the state of the prior art and the known use of light mineral oil in hair compositions.

In regards to the "consisting essentially of" language, the instant language limits the scope of the claims to components that do not materially affect the basic and novel characteristic of the claimed invention. Therefore, EP does not teach materials that affect the basic characteristic by the inclusion of castor oil since the claims are read in light of the specification that discloses utilizing other oil, i.e. castor oil, without affecting the basic composition.

**Claims 1, 3, and 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Urko in further view of Chubinsky (5,843,005) in further view of XP-002180877.**

Urko teaches massage techniques and massage oils. One type of massage oil contains 30 grams vegetable oil and 20 grams liquid paraffin. Urko teaches the use of most vegetable oil such as olive oil. See column 3, lines 53-60.

Although Urko teaches the suitability of most vegetable oils, Urko does not specify other vegetable oils. Further, Urko does not specify the type of mineral oil.

Chubinsky teaches a device for deep tissue massage and ionic therapy.

Chubinsky teaches the use of conventional oil, lotions, and massage oils prior to placing the massage device. See column 9 to 10, line 29-2. Suitable lubricants are mineral oil, coconut oil, wheat germ oil, sesame oil, avocado oil, glycerol, and combinations thereof. See column 6, lines 50-56.

XP teaches a massage oil containing 69.5% light mineral oil, 15% finsolv, 4% avocado oil, 8% sesame oil, 3% coconut oil, and 0.5% alpha-tocopheryl acetate.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings Urko, Chubinsky, and XP-0021180877 and utilize the instant oils in Urko. One would be motivated to look to Chubinsky and incorporate coconut or avocado oil since Chubinsky teaches the suitability and conventional use of these oils and combinations thereof in the massage art. Further, one would be motivated to look at XP and utilize light mineral oil since XP clearly demonstrates the state of the art wherein it is known to use light mineral oil in massage compositions.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharmila S. Gollamudi whose telephone number is (703) 305-2147. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees can be reached on (703) 308-4628. The fax phone numbers for

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the organization where this application or proceeding is assigned are (703) 305-3014 for regular communications and (703) 305-3014 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

SSG  
*WCH*  
June 20, 2003